

Message Text

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PAGE 01 NEW DE 02265 141845Z

51

ACTION L-03

INFO OCT-01 NEA-11 ISO-00 ABF-01 OMB-01 TRSE-00 AID-20

EB-11 COME-00 AGR-20 SS-20 NSC-10 SPC-03 SAM-01 H-03

CIAE-00 INR-10 NSAE-00 RSC-01 SSO-00 NSCE-00 FRB-02

IGA-02 DRC-01 INRE-00 /121 W
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FM AMEMBASSY NEW DELHI

TO SECSTATE WASHDC IMMEDIATE 9709

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E.O. 11652: N/A

TAGS: EFIN IN

SUBJECT: RUPEES: 104(J) CONVERSIONS

REF: STATE 29702

1. EMBOFFS EXPLAINED USG POSITION ON CONTINUATION OF 104(J) CONVERSIONS AFTER THE RUPEE AGREEMENT TO KRISHNASWAMI AT NOON MEETING FEBRUARY 14. WE STRESSED THAT THE AMBASSADOR HAD PLEDGED TO SEVERAL MEMBERS OF CONGRESS, INCLUDING SENATOR TALMADGE, IN RESPONSE TO THEIR SPECIFIC AND POINTED QUESTIONS, THAT 104(J) SALES WOULD CONTINUE AFTER THE RUPEE AGREEMENT. WE SAID IT WAS OUR OPINION THAT IN THE ABSENCE OF SUCH ASSURANCES SERIOUS OBJECTIONS WOULD HAVE BEEN RAISED WHICH MIGHT WELL HAVE PREVENTED THE USG FROM CONCLUDING AN AGREEMENT. WE EXPLAINED THAT THIS WAS ONE OF TWO LAST-MINUTE ISSUES THAT HAD COME UP DURING THE CONGRESSIONAL CONSULTATIONS AND THAT WHILE LEGAL ISSUE (SEE SEPTTEL) REMAINED OUTSTANDING, THE AMBASSADOR HAD BEEN ABLE TO OVERCOME 104(J) PROBLEM. PRICE, HOWEVER, HAD BEEN FIRM PLEDGE ON AMBASSADOR'S PART THAT SUCH SALES WOULD CONTINUE.

2. AFTER CHECKING WITH M.G. KAUL, KRISHNASWAMI TELEPHONED EMBASSY TO SAY THAT GOI RECOGNIZES THAT SALES UNDER 104(J) ARE AN ESTABLISHED
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PAGE 02 NEW DE 02265 141845Z

U.S. USE AND THAT IT HAS NO OBJECTION TO CONTINUATION OF 104(J) SALES

AFTER THE DATE OF THE RUPEE SETTLEMENT. KRISHASWAMI BELIEVES, HOWEVER, THAT ALL SUCH SALES SHOULD BE DEDUCTED FROM THE ANNUAL \$6.4 MILLION CONVERSION PAYMENT TO BE MADE BY GOI ON THE FIRST BUSINESS DAY IN JULY EACH YEAR.

3. AT THIS POINT WE BROACHED SUBJECT AS TO WHETHER KRISHNASWAMI WOULD CONSIDER ALLOWING CONTINUATION OF 104(J) SALES TO U.S. TOURISTS (BUT TERMINATING SALES TO U.S. BUSINESSES AND FOUNDATIONS IN INDIA) WITHOUT COUNTING SUCH SALES AGAINST THE \$6.4 MILLION CEILING, CITING ARGU-

MENT THAT SUCH SALES AVERAGE LESS THAN \$100,000 ANNUALLY, AND CAN THEREFORE BE CONSIDERED DE MINIMUS. KRISHNASWAMI SAID HE WOULD NOT RULE THIS OUT.

4. KRISHNASWAMI'S PREFERRED COURSE OF DEDUCTING CONVERSIONS MADE EACH YEAR FROM THE NEXT ANNUAL \$6.4 MILLION PAYMENT, WHILE ACCEPTABLE TO US IN PRINCIPLE, POSES SOME ADMINISTRATIVE PROBLEMS. WOULD AGREEMENT ITSELF HAVE TO BE REVISED TO PROVIDE FOR SUCH CONVERSIONS ON DATES OTHER THAN FIRST BUSINESS DAY IN JULY, OR COULD THIS

BE HANDLED BY A SIDE LETTER?

5. WE WOULD APPRECIATE WASHINGTON COMMENTS ON INDIAN PROPOSAL AND SUGGESTIONS ON BEST WAY TO REFLECT THIS CHANGE ON PAPER. IN ANY CASE WE BELIEVE THAT MECHANICS OF THIS ISSUE CAN BE RESOLVED AFTER AGREEMENT ENTERS INTO FORCE.
SCHNEIDER

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